

## **CASE UPDATE**

### **01 FEB**

#### **Contractor Personnel Supporting a Force Deployed Outside the US (DFARS Case 2003-D087) AW 01/24/05**

- The purpose of this case is to provide policy and a contract clause to uniformly address situations that require contractor personnel to provide support in the theater of operations to U.S. military forces deployed outside the United States in contingency operations, humanitarian or peacekeeping operations, or other military operations or exercises designated by the combatant commander.
- DoD published an interim rule on March 23, 2004 (69 FR 13500). On September 1, 2004, the DAR Council agreed to a draft final DFARS rule. After receiving DoD approval to publish on December 10, 2005, we forwarded the rule to OIRA for clearance. On January 10, 2005, OFPP requested that OIRA coordinate the rule with the Department of State and USAID, and SBA Office of Advocacy. OFPP also had some specific questions and suggestions to which we will respond within two weeks.

#### **Radio Frequency Identification (RFID) ( DFARS Case 2004-D011) SC 1/24/05**

- The purpose of this case was to require the use of RFID tags on certain commodities delivered to two Defense Distribution Depots in FY 2005.
- The DAR Council recommended an interim rule to be followed by two additional rules in subsequent years in accordance with the RFID implementation schedule.
- OMB rejected an interim rule in favor of a proposed rule. OFPP has given approval but OIRA has raised more questions for which the RFID program office provided responses on 12/30/04.
- Met with OIRA and others on 1/12/05. OIRA to reviewed the case and requires a Business case analysis before proceeding.

#### **Unique Item Identification (DFARS Case 2003-D081) SC 01/24/05**

- The purpose of this case is to require unique identification marking of all items delivered to the Department valued at or above \$5000, with certain requirements for marking items below that threshold. It also provides for valuation of all items delivered to the Department, regardless of dollar value.
- First interim rule issued 10/10/03. Based on substantial public comments, second interim rule issued 12/30/03. Further revisions made in response to second set of public comments and further thinking based on those comments by the UID Program Office. Final rule sent to OIRA 1/6/05.

#### **801 Implementation (DFARS Case 2002-D024) SC 01/24/05**

- The purpose of this case is to implement Section 801(b) of Public Law 107-107 by establishing approval requirements for contracts and task orders for services. The rule prohibits the acquisition of services through use of a DoD contract or task order that is not performance based, or through any contract or task order that is awarded by an agency other than DoD, unless certain approval requirements are met.
- An interim rule was published in the Federal Register on 10/1/03. After receipt of public comments, the rule was expanded to cover both supplies as well as services. The rule also paralleled a policy memorandum on the proper use of non-DoD contracts, issued jointly by AT&L and Comptroller, on 10/29/2004.

- Given the expansion of the coverage of the rule to cover both supplies and services, a second interim rule is appropriate. Approval to publish was sent to DPAP 18 JAN 05.

#### **DoD IG Report on Export Controls (DFARS Case 2004-D010 AW 01/27/05)**

- Although the Department of State and the Department of Commerce establish the implementing regulations with regard export-controlled technology (Export Administration Regulations (EAR) and the International Traffic in Arms Regulations (ITAR), respectively), DoD has a responsibility to develop policies and procedures within the Department of Defense to prevent the transfer of critical technologies and technical information with potential military application to countries and entities of concern.
- The DAR Research and Development committee, supplemented by special experts, is drafting a proposed rule to provide information to the contracting officer and a clause for use in solicitations and contracts which may involve the use or generation of information or technology which may be export-controlled.
- Reassigned to R&D committee, report due 2 FEB 05.

#### **Notification Requirements for Critical Safety Items and Related Services (DFARS 2004-D008 SC 01/27/05)**

- Proposed rule, report from committee date extended shall send to DARC JAN 05

#### **Inflation Adjustments of Acquisition Related Thresholds (DFARS 2004-D022 AW 1/27/05)**

- DARC tasked Ad Hoc committee to coordinate and draft proposed rule due to DARC 02 MAR 05.

#### **Competition Requirements for Federal Supply Schedule and Multiple Award Contracts (DFARS 2004-D009 SC 1/27/05)**

- DAR Case manager revising draft for DARC review 16 FEB 05

#### **Hazardous Material Safety Data (FAR 1998-020 AW 01/27/05)**

- Clarify guidance and remove ambiguities in the clause at FAR 52.223-3, Hazardous Material Identification and safety data.
- Public meeting comments received, Law team report due 26 JAN 05

#### **OMB Circular A-76 (FAR 2004-021 AT 01/27/05)**

- Revise FAR to be consistent with latest revisions to OMB Circular A-76 (May 2003)
- DARC council agreed to draft and forwarded to CAAC on 19 JAN 05.

#### **FAR Part 27 Re-write in plain language (FAR 1999-402 AW 01/27/05)**

- Draft final language from GSA case manager sent to GSA legal, expect clearance 02 MAR 05

#### **Earned Value Management System (FAR Case 2004-019) SC 1/24/05**

- The purpose of this case was to establish EVMS requirements at the FAR level.
- The DAR Council took the position that this case should be streamlined, based mostly on the already existing DoD and NASA coverage. The Contract Implementation team recommended a more expanded coverage, including more material from OMB Circular A-11.
- The DARC and CAAC have agreed and GSA legal is reviewing

**Government Property (FAR Case 2004-025) SC 01/24/05**

- The purpose of this case is to revise FAR Part 45 to eliminate obsolete requirements, re-organize the remaining material in a more logical way, and to introduce a life-cycle approach to property management, using Voluntary Consensus Standards.
- FAR Implementation Team report provided to both DAR Council and CAAC on 12/1/04. Joint discussion of case to take place on 12 JAN 05 and 9 FEB 05.